

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 18 June 2003

Division: Growth Management

Bulk Item: Yes ☐ No ☒

Department: Marine Resources

AGENDA ITEM WORDING:

Public Hearing to adopt an Ordinance revising Section 5.5-17, Monroe County Code (Boat, Docks and Waterways), to eliminate the definition of "navigable canal, substituting the definition "man-made water body" and to further revise the Chapter to consolidate all definitions within the Chapter into Article I of the Chapter.

ITEM BACKGROUND:

It has become apparent that the definition of "navigable canal" within Chapter 5.5 as it relates to required trimming of canal vegetation, is too broad and is leading to enforcement issues that were never anticipated when the Ordinance was drafted. An existing definition, "man-made water body," within the Chapter serves the purpose of the canal trimming section of the Chapter. In addition, this Ordinance will further revise the Chapter to consolidate all definitions within the Chapter into Article I of the Chapter. Only one public hearing required.

PREVIOUS RELEVANT BOCC ACTION:

Ordinance 42-2001

Ordinance 31-2002

CONTRACT/AGREEMENT CHANGES:

NA

STAFF RECOMMENDATIONS;

Approval

TOTAL COST: None

BUDGETED: Yes ☐ No ☐

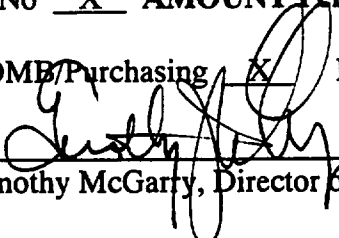
COST TO COUNTY: None

SOURCE OF FUNDS:

REVENUE PRODUCING: Yes ☐ No ☒ AMOUNT Per Month Year

APPROVED BY: County Atty ☒ OMB/Purchasing ☒ Risk Management ☒

DIVISION DIRECTOR APPROVAL:


Timothy McGarry, Director of Growth Management

DOCUMENTATION: Included ☒ To Follow ☐ Not Required ☐

DISPOSITION:

AGENDA ITEM NO.: 163

ORDINANCE NO. 2003

AN ORDINANCE OF THE MONROE COUNTY BOARD OF COMMISSIONERS AMENDING ARTICLE II, SECTION 5.5-17, BOATS, DOCKS, AND WATERWAYS, ELIMINATING THE TERM AND DEFINITION "NAVIGABLE CANAL" AND REPLACING IT INSTEAD WITH THE TERM AND THE DEFINITION "MAN MADE WATER BODY" AS CURRENTLY ESTABLISHED IN ARTICLE I OF THE CHAPTER, FURTHER AMENDING THE CHAPTER TO MODIFY CERTAIN ARTICLES AND SECTIONS THROUGHOUT THE CHAPTER TO MOVE ALL DEFINITIONS TO ARTICLE I OF THE CHAPTER, PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES, PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF SECTIONS FOUND INCONSISTENT WITH THIS REVISION, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the term "navigable canal" as defined in Chapter 5.5, 17 is overbroad and exceeds the intent of the Board of County Commissioners when adopting the Section; and

WHEREAS, the term "man-made water body" as also defined in the Chapter better defines the intent of the Board in adopting an Ordinance requiring that man-made canals be maintained for unobstructed navigation; and

WHEREAS, it is the intent of the Board to consolidate the Code, such as definition sections, for simplicity of use, now, therefore,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, MONROE COUNTY, FLORIDA THAT REVISIONS TO CHAPTER 5.5 OCCUR AS FOLLOWS:

Section 1. Revise Chapter 5.5, Article I to add definitions as follows:

Commercial vessel means: (1) any vessel primarily engaged in the taking or landing of saltwater fish or saltwater products or freshwater fish or freshwater products, or any vessel licensed pursuant to [F.S.] § 370.06 from which commercial quantities of saltwater products are harvested, from within and without

the waters of this state for sale either to the consumer, retail dealer, or wholesale dealer; (2) any other vessel, except a recreational vessel as defined in this section.

Manager means the manager and/or management staff of the land based facility authorized by separate resolution and/or agreement to operate, manage and maintain any county mooring field(s).

Mooring field(s) means areas in and adjacent to Monroe County installed mooring systems, including designated anchoring areas. These areas may include both county and state owned submerged lands, but shall exclude privately owned submerged lands. The delineation, implementation and management of county mooring fields will be approved by the state.

Real Property Owner means any part owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, with legal or beneficial title to the whole or to part of real property.

Recreational vessel means any vessel: (a) Manufactured and used primarily for noncommercial purposes; or (b) Leased, rented, or chartered to a person for the person's noncommercial use.

Residential area means any area designated improved subdivision, suburban residential or suburban residential limited, sparsely settled, urban residential, and urban residential mobile home under the Monroe County land development regulations.

Seaworthy condition means that a vessel is in good condition and capable of the use for which it was designed.

Section 2. Include definitions, existing or to be included in Article I, as referenced in Ordinance 006-2003, but revised herein:

Motorized Vessel ~~motorboat~~ means any vessel, which is propelled or powered by machinery and which is capable of being used as a means of transportation on water.

Combustion Vessel Exclusion Zone means that no person shall operate a motorized vessel (as defined in Article I of this Chapter), by use of a combustion engine, or in some cases where specifically established - an electric motor, in any area spatially

defined as "Combustion Vessel ~~Engine~~ Exclusion Zone" and which is so identified as a "Combustion Vessel ~~Engine~~ Exclusion Zone" by appropriate signage.

Section 3. Replace 5.5-16 (a) *Definitions* with the following text:

(a) Definitions shall apply as provided in Article I of this chapter or as referenced from other chapters as appropriate.

Section 4. Replace 5.5-17 (a) *Definitions* with the following text:

(a) Definitions shall apply as provided in Article I of this chapter or as referenced from other chapters as appropriate.

Section 5. Revise Section 5.5-17 (b) to read as follows:

(b) *Prohibition on causing or permitting trees to interfere with vessels upon any man-made waterbody.* No real property owner may cause, suffer, or permit a tree, trees or other vegetation, to grow, or otherwise extend, from his or her real property into or over a man-made water body in such a way or manner as to constitute a navigational hazard to, or to interfere with, vessels engaged in a journey or ride upon the man-made water body.

Section 6. Replace 5.5-46. Definitions, with the following text:

Definitions shall apply as provided in Article I of this chapter or as referenced from other chapters as appropriate.

Section 7. Replace 5.5-77. Definitions, with the following text:

Definitions shall apply as provided in Article I of this chapter or as referenced from other chapters as appropriate.

Section 8. Revise Chapter 5.5-108 (c) as follows:

Combustion Engine ~~Vessel~~ Exclusion Zones: No person shall operate a motorized vessel in the following areas spatially defined as "combustion engine ~~vessel~~ exclusion zones."

Chapter 5.5, 108 (c) (1) through (4) are retained intact.

Section 9. Severability. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such invalidity.

Section 10. Repeal of inconsistent ordinance clauses. All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

Section 11. Inclusion in the Monroe County Code. The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition to amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 12. Effective date. This Ordinance shall be filed with the Office of the Secretary of State of the State of Florida, and will take effect upon receipt by that agency.

PASSED AND ADOPTED by the Board of County Commissioners, Monroe County, Florida at a regular meeting of said Board held on the 18th day of June, A.D., 2003.

Mayor Dixie Spehar _____
Mayor Pro Tem Murray Nelson _____
Commissioner George Neugent _____
Commissioner Charles "Sonny" McCoy _____
Commissioner David Rice _____

BOARD OF COUNTY COMMISSIONERS
MONROE COUNTY, FLORIDA

BY: _____
MAYOR/CHAIR PERSON

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

BY: _____
DEPUTY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY:  _____
ATTORNEY'S OFFICE